



Melissa Laurita Kohl <fungi.flora.folkschool@gmail.com>

"Taste of Herbs" Trademark

Melissa Laurita Kohl <melissa@fungiflorafolkschool.com>

Tue, Oct 18, 2016 at 10:37 PM

To: John Gallagher <jg@learningherbs.com>, Rosalee de la Forêt <rosalee@herbmentor.com>

Hi John,

I have thought a lot about this trademark issue. I appreciate all you have done for the herbal community and think you have been rewarded well for your dedication to herbal education. I have taken so long to respond because I am pregnant and honestly, I find this whole topic saddens me. Now that your potential trademark is open for public comment on November 1, I find I have to act.

I do feel that phrases like "taste of herbs" "culinary herbalism" and "food as medicine" are too common to be owned or trademarked in any way. I fear that teaching about herbs may be the only aspect of herbalism that remains free from regulation and corruption. Thanks to the GMPs, the herbal cottage industry is dying. Licensure and standardization of practice are being pursued and practicing is not quite legal in most states. But education belongs to free speech and until your email about trademarking, it was something I hoped would be preserved indefinitely.

The herbal community is incredibly open and generous. Herbalists share freely - deep in our bones we know this knowledge is for everyone. It is our inheritance. A simple fact of being human. As much a right as access to clean water and air. But we can only share freely because we all share freely. When members of the community start trademarking common names, it becomes risky to be open and generous.

Unfortunately, herbalism is finally, just barely, becoming something that one can make a pretty penny on and that is changing the community in ways that we must resist. "Fire Cider" and now "Four Thieves" are trademarked. But far more disturbing are the servicemark on "Plant Spirit Medicine" and your trademark on "Taste of Herbs". Fortunately, the servicemark on "Plant Spirit Medicine" lapsed in 2011 and herbalists, newly alerted to this servicemark are writing a formal letter disputing its right so that no one is tempted to pick it up in the future.

When you wrote me on 5/26/16 you did not yet have a registered trademark on "Taste of Herbs". You filed for one on 5/27/16 and have not yet been granted a trademark. If you are granted a trademark, in order to actually maintain your trademark, you would have to send cease and desist letters to everyone using "Taste of Herbs" but also phrases too similar, such as "The Five Tastes of Herbs", "The Six Tastes of Herbs" etc. Following suit, other herbalists may feel forced to trademark their names and soon enough, if one wants to teach this very foundational aspect of traditional herbalism, then one would have a hard time naming it anything intelligible or useful, limiting the transmission of herbal knowledge.

I wanted to check in with my teacher and mentor Rosemary Gladstar to see what she thought of the matter before responding and then I got busy teaching the "Taste of Herbs" and other classes (and then I got pregnant!). I am contacting you now because it has just come to my attention that Eliot Cowan servicemarked "Plant Spirit Medicine" and has gone after people for using such. The response on facebook by fellow herbalists was furious and a dear one connected to Sage Mountain mentioned what you have done with Taste of Herbs. Tonight I also mentioned the issue on facebook, which is why I included Rosalee on this email (she was part of that conversation online).

I am starting to organize around these issues because I feel that trademarking course names (as opposed to school names) is a dangerous precedent. Below is a modified email of what I send to Rosemary Gladstar. As you might imagine, she, too, is against trademarking course names.

Rosemary believes that hundreds of herbalists have used the name "taste of herbs" for their classes over the years. Below I list some examples I found while doing an initial investigation into the subject.

I would like to give you the opportunity to withdraw your application for trademark. Otherwise, as it is a new trademark, it can still be contested. I feel obligated to let the herbal community know that it can be contested. With "Fire Cider" no one was aware until it was too late.

Shire City Herbals could afford to anger the herbal community - they were not selling to the herbal community. You are, which is why I would like to give you the opportunity to withdraw your trademark. I do not want to injure you or your business but I do want to preserve the heart and spirit of the herbal community. I have very much enjoyed being a part of herbmentor.com and have promoted your site and Rosalee's teachings widely. I am widely read and have studied with dozens of teachers - I refer to many teachers in my classes. I have so much to share that it is a choice of who to highlight.

Since your email in May, I no longer mention any information I learned through Rosalee (most notably the sage pastilles and the fact that seaweed has potassium salt- that's an awesome tidbit!) and instead promote other teachers. I no longer mention her course nor encourage people to take it nor to sign up for herbmentor.com. I am one herbalist and you have benefited from my membership (I have probably spent over a thousand dollars on your products) and you have benefited from my promotion of your site. This is true of many people who participate out of good will. I strongly encourage you to consider your options and to err on the side of good will.

If you wish to maintain the trademark, please know that I will be quite outspoken about the issue. Below are some points I presented to Rosemary Gladstar about the issue:

- On Friday (May 26, 2016) I was told by John Gallagher to not use the name "Taste of Herbs" as it is a trademark of Learning Herbs.
- I have since been told by John that "Taste of Herbs" is a registered trademark of Learning Herbs.
- As of this writing, "Taste of Herbs" is not a registered trademark. Learningherbs.com, herbmentor, wildcraft (only in the context of board games), and Herb Fairies are.
- None of his registered trademarks are signalled with a registered trademark symbol.
- Rosalee released an online "Taste of Herbs" class in October 2013. At this point it could have been registered as a trademark if they could make the case. See: <http://tasteofherbs.com/>
- Phyllis Light taught a "Taste of Herbs" class in 2013 and it was advertised before Rosalee released her course. See: <http://herbalresurgence.org/assets/2013-class-schedule.pdf>
- Phyllis Light taught a "Taste of Herbs" class at the 2012 Traditions in Western Herbalism conference. See: <http://humantrinity.com/bodysense/tag/traditions-in-western-herbalism-conference/page/3/>
- "A Taste of Herbs" has been marketed before and since Rosalee's class, particularly in Europe. See: <https://www.facebook.com/events/874985179223362/>
- "A Taste of Herbs" was promoted online in 2008 - it was a class in Europe.
- "A Taste of Herbs" was a book published in the U.S. in 1995 and a book published in the U.K. in 1992.
- "A Taste of Herbs" has been the name of numerous articles.
- The concept of the taste of herbs is thousands of years old, though normally in the U.S. the headings of these classes within TCM and Ayurveda trainings are: "The Five Tastes"; "The 6 Tastes"; "The Tastes of Chinese Herbs"; "The 6 Tastes of Herbs", etc.
- The phrase "taste of herbs" appears frequently in Ayurvedic and TCM texts.
- The phrase "taste of herbs" is used colloquially in American speech to describe food and has even been found referring to Papa John's in addition to other restaurants.
- "taste" is the only way most Americans think about herbs.
- "taste of" is a common way of describing things. Example "taste of provance"
- John Gallagher acknowledged that "herb first aid" and "herbal cold care" were too generic to trademark. I thought "taste of herbs" was generic.
- Herbalists reuse course titles frequently.
- All herbal concepts were novel at one point in this country and the reason "bitters" "herbs for winter health" "plant spirit medicine" "herbal preparations" etc. are not trademarked is because the herbal teachers like you never trademarked them. [Note to John and Rosalee - it turns out that I was wrong about "plant spirit medicine"]
- The herbal community seems to be strongly moving in the direction of absorbing energetic concepts into western herbalism. As this happens, more and more classes will be offered on these topics. At the moment, "taste of herbs" might seem novel to western herbalists, but it is as common place as you can get in Ayurveda and is the backbone of its daily practice.
- If they trademark "taste of herbs" and I trademark "flavor of herbs" and the next dozen teachers trademark variations, then future teachers will not be able to name their classes anything sensible or will not be able to offer the class. This restricts the flow of information and access to herbal education and drives up the cost of herbal education. The more people trademark names of courses, the more people will feel like they have to trademark their own name, lest someone else steals it and trademarks it. With Fire Cider and now Four Thieves. this is already happening in the herbal products world.
- Teaching is the last holdout of true herbalism. The FDA has ruined herbal product businesses. The push toward standardization may villify practitioners. Teaching - that is the one thing I thought would stay free and open, thinking that no one could take away your ability to freely share information. I would hate it if the herbal community did it to itself.
- Additionally, John said that it would be up to you and K.P. Khalsa to trademark your respective classes with him but that even if you didn't it would not be cool to use "Culinary Herbalism" because that is "K.P. Khalsa's thing".
- He said it would not be cool to use "Food As Medicine" because that is Todd Caldecott's book and course and it's his thing.
- "Food As Medicine" was published by a different author in 2005. Todd published his book in 2011. "Food as Medicine" is a very common place and is the name of other courses, articles, etc.
- "Culinary Herbalism" and "Food As Medicine" are generic concepts. In my opinion, they do not belong to men who did an excellent job at marketing them and making a living.
- Colleges do not trademark course titles. The curriculum for their courses is not standardized (though are often similar), but the course titles are often identical. Otherwise, the first college would get "Geology 101" the second

"Rocks 101" and the thirtieth, something so strange and convoluted they decide to not teach it at all. Trademarks are to prevent brand confusion. There is no brand confusion because Geology 101 is clearly marketed as taking place at a particular trademarked college. Just like my "taste of herbs" class takes place at my school and hers takes place online as part of Learning Herbs.

- I did not base my class on hers and I did not think of teaching it because of her. Tastes are chapter 1 Ayurveda. I incorporated Ayurvedic concepts in my level 1 class, but superficially and wanted to deepen Ayurvedic energetics before moving on to a third level "materia medica" class. My choice was doshas or tastes. Doshas are dense and you do not talk about herbs as much as you do about lifestyle. Students zone out unless you talk about herbs specifically. Tastes would allow me to deepen their understanding of the doshas and focus on herbs - win win.
- My class in no way interferes with their marketing and in no way can cause confusion. Mine is in person; hers is online. We market them differently. No one can find my class before hers unless they are searching for me specifically. Here is my course: <http://www.fungiflorafolkschool.com/2016/05/taste-of-herbs-course-details.html>
- I do own access to Rosalee's "taste of herbs" class but I have ADHD and have not made it very far. Her material is too flat for me to focus. Any time I referred to something I learned in her class (which was infrequent) I mentioned that I did. In general, I have learned herbalism by repeating the same class dozens of times with a variety of teachers. I took her class because I was interested in this topic (from a 2009 year long TCM Herbology course I took) and was also interested in teaching it.
- I mention this because John also assumed that I based my class entirely on hers. I responded to that aspect of his emails but not to the trademark issue.
- This is the list of teachers that directly influenced this class (there are 25): Dr. Robert Svoboda, Candis Cantin, Michael Tierra, K.P. Khalsa, Vasant Lad, David Fawley, Anne McIntyre, Maya Tiwari, Kate Gilday, David Winston, Dr. Claudia Welsh, James Green, David Hoffman, Guido Mase, Jim McDonald, Rosemary Gladstar, Robin Rose Bennet, Michael Shor, Scott Moylan, Kathleen Maier, Dr. Mary Bove, Talia Lutzger, Matthew Wood, Rosalee de la Foret and one other Indian author who is lesser known (but whose name I cannot remember and his two books are at my herb school).

I am in Rosemary country. I believe strongly the generosity and openness of the herbal community. I feel it is a sacred duty to share herbalism and to preserve it for future generations. I am not a capitalist. I can understand where you are coming from but I sincerely hope you see it from the perspective of plant people and herbalists - most of whom are anti-capitalist and have fallen madly in love with a giving and kind hearted community.

If I do not hear from you within the next few days, I will assume that you are moving forward with the trademark. In that case, I will help the herbal community realize they can contest this trademark.

Sincerely,

Melissa Laurita Kohl

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Why should a man die when he has sage growing in his garden? - Medieval Proverb
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